



December 18, 2009

C. Daniel Hershenson
Hershenson, Carter, Scott & McGee, P.C.
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Dear Dan:

Re: Jurisdictional Opinion #3-134 - Bethel Mills / Hancock Lumber - Land Use Permit #3W0560, Hancock and Rochester

This is in response to your request for a jurisdiction opinion as to whether the replacement of roofing and addition of siding and security lighting to three pole storage sheds at the Hancock Lumber / Bethel Mills Lumber Supply, subject to Land Use Permit #3W0560, and located in the Towns of Hancock and Rochester is a material change requiring a permit. Based on the evidence you have provided, as discussed below, these changes are not sufficient to constitute a material change and an Act 250 permit is not required. If additional changes are contemplated, please contact us so that we may review whether a permit is required. The following are the facts upon which this opinion is based:

1. The sheds were built in the 1960's and have been consistently used for storage of various lumber, building materials, equipment, vehicles, and other miscellaneous items of property. There will be no difference in the type of materials stored, regardless of whether the sheds are open or enclosed. The intent is to clean up an existing eyesore and provide better protection for the lumber, building materials, equipment, etc. which have historically been stored in these sheds. There will be no increases in traffic or hours of operation.
2. The roofs (which are already metal) and siding will be metal and the colors will be earth tones.
3. On each shed, the bay closest to the river bank will be removed resulting in the structures being 16 feet further from the river bank.
4. Security lighting will consist of fully shielded security lights similar to that shown on the "Green Earth Lighting cut sheet." Low-wattage bulbs will be used and lights placed at approximately the eave line of the sheds. There will be two

lights per side with one light on each end over the entrances to provide sufficient security protection while at the same time guaranteeing no off-site lighting impacts.

Analysis and Conclusion:

Act 250 permit amendments are required for changes to the project which constitute material changes. "Material change" is defined in the Natural Resources Board Rules (Rule 2(C)(6) as "any change to a permitted development or subdivision which has a significant impact on any finding, conclusion, term or condition of the project's permit or which may result in a significant adverse impact with respect to any of the criteria specified in 10 V.S.A. Section 6086(a)(1) through (a)(10)."

In this case, the changes proposed will not have a significant impact of findings, terms or conditions of the permit and will not result in significant adverse impact to the criteria.

This is a jurisdictional opinion issued pursuant to 10 V.S.A. § 6007(c) and Act 250 Rule 3(A). Reconsideration requests are governed by Act 250 Rule 3(B) and should be directed to the district coordinator at the above address. Any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of issuance, pursuant to 10 V.S.A. Chapter 220. The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, National Life Records Center Building, Montpelier, VT 05620-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the VRECP.

For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The Environmental Court mailing address is: Environmental Court, 2418 Airport Road, Suite 1, Barre, VT 05641-8701. (Tel: 802-828-1660).

If you would like this to be a final binding opinion please provide us with the names and addresses of the abutters and potentially affected persons. We are copying this opinion to statutory parties.

Best regards,

April Hensel /s/
April D. Hensel
District 2 Environmental Coordinator

Phone 802-885-8844
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